

AMENDED IN ASSEMBLY JUNE 20, 2011

AMENDED IN ASSEMBLY JUNE 1, 2011

**SENATE BILL**

**No. 869**

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**Introduced by Senator Yee**

February 18, 2011

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An act to ~~add Section 9884.76 to~~ *amend Sections 9884.7 and 9889.3* of the Business and Professions Code, and to amend Section 27317 of the Vehicle Code, relating to automotive repair dealers.

LEGISLATIVE COUNSEL'S DIGEST

SB 869, as amended, Yee. Automotive repair dealers: airbags.

Existing law, the Automotive Repair Act, establishes the Bureau of Automotive Repair under the supervision and control of the Director of Consumer Affairs. Existing law ~~provides that a person who fails to comply with the act is guilty of a misdemeanor and punishable by a fine not exceeding \$1,000, by imprisonment not exceeding 6 months, or by both that fine and imprisonment, except as specified.~~

~~This bill would provide that an automotive repair dealer who prepares a written estimate for repairs that includes replacement of a deployed airbag, as specified, who fails to repair and fully restore the airbag, as specified, is guilty of a misdemeanor that is punishable by a \$5,000 fine, by one year imprisonment in a county jail, or by both that fine and imprisonment.~~

~~Existing law specifies grounds for which the director may deny, suspend, revoke, or place on probation the registration of an automotive repair dealer or the license of an official lamp and brake adjusting station. Existing law provides that a person who knowingly installs or reinstalls for compensation, or who distributes or sells, any previously deployed airbag is guilty of a misdemeanor punishable by a fine of \$5,000, or~~

confinement in a county jail for one year, or *by* both that fine and confinement.

~~This bill would exempt from that misdemeanor provision an automotive repair dealer who complies with the above provision regarding the repair and restoration of a deployed airbag add to those grounds for action by the director a conviction of a violation of that misdemeanor provision. The bill would in addition provide that a person who undertakes for compensation to repair a vehicle's inflatable restraint system and who fails to restore it to its original operating condition is guilty of a misdemeanor subject to the same punishment.~~

Because this bill would create a new crime, the bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1     ~~SECTION 1. Section 9884.76 is added to the Business and~~
- 2     ~~Professions Code, to read:~~
- 3     ~~9884.76. Notwithstanding Section 9889.20, an automotive~~
- 4     ~~repair dealer who prepares a written estimate for repairs pursuant~~
- 5     ~~to Section 9884.9 that includes replacement of a deployed airbag~~
- 6     ~~that is part of an inflatable restraint system, and who fails to repair~~
- 7     ~~and fully restore the airbag that is part of an inflatable restraint~~
- 8     ~~system to its original operating condition, where the customer has~~
- 9     ~~paid for the airbag as provided in the estimate, is guilty of a~~
- 10    ~~misdemeanor punishable by a fine of five thousand dollars (\$5,000)~~
- 11    ~~or by imprisonment in a county jail for one year or by both that~~
- 12    ~~fine and imprisonment.~~
- 13    ~~SEC. 2. No reimbursement is required by this act pursuant to~~
- 14    ~~Section 6 of Article XIII B of the California Constitution because~~
- 15    ~~the only costs that may be incurred by a local agency or school~~
- 16    ~~district will be incurred because this act creates a new crime or~~
- 17    ~~infraction, eliminates a crime or infraction, or changes the penalty~~
- 18    ~~for a crime or infraction, within the meaning of Section 17556 of~~

~~the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.~~

*SECTION 1. Section 9884.7 of the Business and Professions Code is amended to read:*

9884.7. (a) The director, where the automotive repair dealer cannot show there was a bona fide error, may deny, suspend, revoke, or place on probation the registration of an automotive repair dealer for any of the following acts or omissions related to the conduct of the business of the automotive repair dealer, which are done by the automotive repair dealer or any automotive technician, employee, partner, officer, or member of the automotive repair dealer.

(1) Making or authorizing in any manner or by any means whatever any statement written or oral which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.

(2) Causing or allowing a customer to sign any work order that does not state the repairs requested by the customer or the automobile's odometer reading at the time of repair.

(3) Failing or refusing to give to a customer a copy of any document requiring his or her signature, as soon as the customer signs the document.

(4) Any other conduct that constitutes fraud.

(5) Conduct constituting gross negligence.

(6) Failure in any material respect to comply with the provisions of this chapter or regulations adopted pursuant to it.

(7) Any willful departure from or disregard of accepted trade standards for good and workmanlike repair in any material respect, which is prejudicial to another without consent of the owner or his or her duly authorized representative.

(8) Making false promises of a character likely to influence, persuade, or induce a customer to authorize the repair, service, or maintenance of automobiles.

(9) Having repair work done by someone other than the dealer or his or her employees without the knowledge or consent of the customer unless the dealer can demonstrate that the customer could not reasonably have been notified.

(10) Conviction of a violation of Section 551 of the Penal Code.

1     (11) *Conviction of a violation of Section 27317 of the Vehicle*  
2     *Code.*

3     Upon denying a registration, the director shall notify the  
4     applicant thereof, in writing, by personal service or mail addressed  
5     to the address of the applicant set forth in the application, and the  
6     applicant shall be given a hearing under Section 9884.12 if, within  
7     30 days thereafter, he or she files with the bureau a written request  
8     for hearing, otherwise the denial is deemed affirmed.

9     (b) Except as provided for in subdivision (c), if an automotive  
10    repair dealer operates more than one place of business in this state,  
11    the director pursuant to subdivision (a) shall only suspend, revoke,  
12    or place on probation the registration of the specific place of  
13    business which has violated any of the provisions of this chapter.  
14    This violation, or action by the director, shall not affect in any  
15    manner the right of the automotive repair dealer to operate his or  
16    her other places of business.

17    (c) Notwithstanding subdivision (b), the director may suspend,  
18    revoke, or place on probation the registration for all places of  
19    business operated in this state by an automotive repair dealer upon  
20    a finding that the automotive repair dealer has, or is, engaged in a  
21    course of repeated and willful violations of this chapter, or  
22    regulations adopted pursuant to it.

23    *SEC. 2. Section 9889.3 of the Business and Professions Code*  
24    *is amended to read:*

25    9889.3. The director may suspend, revoke, or take other  
26    disciplinary action against a license as provided in this article if  
27    the licensee or any partner, officer, or director thereof:

28    (a) Violates any section of the Business and Professions Code  
29    that relates to his or her licensed activities.

30    (b) Is convicted of any crime substantially related to the  
31    qualifications, functions, or duties of the licenseholder in question.

32    (c) Violates any of the regulations promulgated by the director  
33    pursuant to this chapter.

34    (d) Commits any act involving dishonesty, fraud, or deceit  
35    whereby another is injured.

36    (e) Has misrepresented a material fact in obtaining a license.

37    (f) Aids or abets an unlicensed person to evade the provisions  
38    of this chapter.

39    (g) Fails to make and keep records showing his or her  
40    transactions as a licensee, or fails to have the records available for

1 inspection by the director or his or her duly authorized  
2 representative for a period of not less than three years after  
3 completion of any transaction to which the records refer, or refuses  
4 to comply with a written request of the director to make the record  
5 available for inspection.

6 (h) Violates or attempts to violate the provisions of this chapter  
7 relating to the particular activity for which he or she is licensed.

8 (i) Is convicted of a violation of Section 551 of the Penal Code.

9 (j) *Is convicted of a violation of Section 27317 of the Vehicle*  
10 *Code.*

11 ~~SEC. 2.~~

12 *SEC. 3. Section 27317 of the Vehicle Code is amended to read:*

13 ~~27317. Except as provided by Section 9884.76 of the Business~~  
14 ~~and Professions Code, any~~ Any person who installs or reinstalls  
15 for compensation, or who distributes or sells, any previously  
16 deployed airbag that is part of an inflatable restraint system, if the  
17 person knows that the airbag has been previously deployed, *or*  
18 *who undertakes for compensation to repair a vehicle's inflatable*  
19 *restraint system and who fails to restore it to its original operating*  
20 *condition* is guilty of a misdemeanor punishable by a fine of five  
21 thousand dollars (\$5,000) or by confinement in a county jail for  
22 one year or by both that fine and confinement.

23 *SEC. 4. No reimbursement is required by this act pursuant to*  
24 *Section 6 of Article XIII B of the California Constitution because*  
25 *the only costs that may be incurred by a local agency or school*  
26 *district will be incurred because this act creates a new crime or*  
27 *infraction, eliminates a crime or infraction, or changes the penalty*  
28 *for a crime or infraction, within the meaning of Section 17556 of*  
29 *the Government Code, or changes the definition of a crime within*  
30 *the meaning of Section 6 of Article XIII B of the California*  
31 *Constitution.*